

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

JERRY E. SPICER,

Plaintiff,

v.

DR. HENRY RICHARDS,

Defendant.

Case No. C07-5109 FDB/KLS

ORDER TO SHOW CAUSE

This case has been referred to United States Magistrate Judge Karen L. Strombom pursuant to 28 U.S.C. § 636(b)(1) and Local MJR 3 and 4. This matter comes before the court on Plaintiff's filing of a motion to proceed *in forma pauperis* and a civil rights complaint under 42 U.S.C. § 1983. (Dkt. # 1). Plaintiff is currently detained at the Washington State Department of Social and Health Services' (DSHS) Special Commitment Center (SCC), McNeil Island, Washington. To file a complaint and initial legal proceedings, a plaintiff must file a filing fee of \$350.00 or file a proper application to proceed *in forma pauperis*.

The court may permit indigent litigants to proceed *in forma pauperis* upon completion of a proper affidavit of indigency. *See* 28 U.S.C. § 1915(a). However, the court has broad discretion in denying an application to proceed *in forma pauperis*. *Weller v. Dickson*, 314 F.2d 598 (9th Cir. 1963), *cert. denied*, 375 U.S. 845 (1963).

Several district courts have ruled that denial of *in forma pauperis* status is not unreasonable when a

1 prisoner is able to pay the initial expenses required to commence a lawsuit. *See Temple v. Ellerthorpe*, 586
2 F.Supp. 848 (D.R.I. 1984); *Braden v. Estelle*, 428 F.Supp. 595 (S.D.Tex. 1977); *U.S. ex rel. Irons v.*
3 *Com. of Pa.*, 407 F.Supp. 746 (M.D.Pa. 1976); *Shimabuku v. Britton*, 357 F.Supp. 825 (D.Kan. 1973),
4 *aff'd*, 503 F.2d 38 (10th Cir. 1974); *Ward v. Werner*, 61 F.R.D. 639 (M.D.Pa. 1974).

5 In his application to proceed *in forma pauperis*, Plaintiff indicates that he earns \$200.00 every two
6 weeks working for DSHS at SCC and that he pays no expenses from these earnings. (*Id.* at 3). Based on
7 the income reported by Plaintiff, it would appear that Plaintiff has sufficient funds with which to pay the
8 initial \$350.00 required to commence this lawsuit. However, if Plaintiff has any obligations he is required
9 to pay from his weekly DSHS earnings, those obligations would assist the court in determining his
10 eligibility for *in forma pauperis* status.

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12 Accordingly, **IT IS ORDERED:**

- 13 (1) Plaintiff shall file an amended application **no later than April 13, 2007**, which includes all
14 payments and obligations, if any, that Plaintiff pays out of his weekly DSHS earnings.
15 (2) The Clerk is directed to send a copy of this Order to Plaintiff.

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17 DATED this 14th day of March, 2007.

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21 Karen L. Strombom
22 United States Magistrate Judge
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